

**ORIGINAL**

1 James G. Garcia  
 2 PrisonerID#: K-26584  
 3 Ironwood State Prison  
 P.O. Box 2199  
 4 Blythe, CA 92226

5 Plaintiff, In pro se

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U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  


## UNITED STATES DISTRICT COURT

## NORTHERN DISTRICT OF CALIFORNIA

JAMES G. GARCIA,	)	Case No. CV 07-6262 CRB (PR)
Plaintiff,	)	OBJECTION
v.	)	
BEN CURRY, Warden, et al.,	)	
Defendant's,	)	

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Plaintiff James G. Garcia, objects to Respondents motion for Wavier of Reply, wherefore, Court found cognizable evidence on April 18, 2008 to support Plaintiff's claims pursuant to 28 U.S.C. § 1915A(a), and § 1915A(a), thus it would be a waste of Courts time to review Plaintiffs claim's again.

Therefore, Plaintiff Objects to Respondents motion of wavier of reply, and Plaintiff further requests that Court make an order compelling Respondents to reply no later than 90 days of Courts order executed on this 14th day of July 2008.

Respectfully submitted,



James G. Garcia  
 Plaintiff. In pro se

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES G. GARCIA

v.

Case No. CV 07-6262 CRB (PR)

BEN CURRY, Warden, et al.

**PROOF OF SERVICE**

I hereby declare that on July 14, 2008, I served a copy of the attached OBJECTION by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by surrendering said envelope to the staff at Ironwood State Prison entrusted with the logging and mailing of inmate legal mail:

Office Of The Clerk, U.S. District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

Office Of The Attorney General  
Department Of Justice  
455 Golden Gate Avenue, Suit 1100  
San Francisco, CA 94102-7004

I declare under penalty of perjury that the foregoing is true and correct.



—

1 EDMUND G. BROWN JR.  
2 Attorney General of the State of California  
3 DAVID S. CHANEY  
4 Chief Assistant Attorney General  
5 FRANCES T. GRUNDER  
6 Senior Assistant Attorney General  
7 THOMAS S. PATTERSON  
8 Supervising Deputy Attorney General  
9 LILY A. KORMAN, State Bar No. 242688  
10 Deputy Attorney General  
11 455 Golden Gate Avenue, Suite 11000  
12 San Francisco, CA 94102-7004  
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Attorneys for Defendants A. Tucker, B. Curry, V. Khan, D. N. McCall, and A. E. Roberts

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JAMES G. GARCIA.

C 07-6262 CRB (PR)

**Plaintiff,**

v.

BEN CURRY, Warden, et al

**DEFENDANTS' WAIVER OF  
REPLY AND DEMAND FOR  
JURY TRIAL**

## Defendants

## WAIVER OF REPLY

Defendants A. Tucker, B. Curry, V. Khan, D. N. McCall, and A. E. Roberts waive their right to reply to Plaintiff's complaint, and plan to file a responsive motion within ninety days of the Court's order screening the complaint under 28 U.S.C. § 1915A. (Order Service, April 18, 2008). Under the Prison Litigation Reform Act, a defendant in a prisoner suit may waive the right to reply without admitting the complaint's allegations. 42 U.S.C. § 1997(e)(g). The court may not grant the plaintiff any relief unless a reply has been filed. *Id.* And the court may order a defendant to file a reply only "if it finds that the plaintiff has a reasonable opportunity to prevail

1 on the merits." *Id.*

2 **DEMAND FOR JURY TRIAL**

3 Defendants A. Tucker, B. Curry, V. Khan, D. N. McCall, and A. E. Roberts  
4 demand a trial by jury in this case.

5  
6 Dated: June 30, 2008

7 Respectfully submitted,

8 EDMUND G. BROWN JR.  
Attorney General of the State of California

9 DAVID S. CHANEY  
Chief Assistant Attorney General

10 FRANCES T. GRUNDER  
Senior Assistant Attorney General

11 THOMAS S. PATTERSON  
Supervising Deputy Attorney General

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16 LILY A. KORMAN  
17 Deputy Attorney General  
18 Attorneys for Defendants A. Tucker, B. Curry, V. Khan, D. N.  
19 McCall, and A. E. Roberts

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**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **J. G. Garcia v. B. Curry, et al.**

No.: **C 07-6262 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On June 30, 2008, I served the attached

**DEFENDANTS' WAIVER OF REPLY AND DEMAND FOR JURY TRIAL**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**James G. Garcia, K-26584  
Ironwood State Prison  
P.O. Box 2229  
Blythe, CA 92226  
Pro Per**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 30, 2008, at San Francisco, California.

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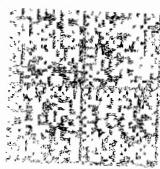
T. Oakes  
Declarant

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*/s/ T. Oakes*  
Signature

Ironwood State Prison  
P.O. Box 2199, D3-149  
Blythe, CA 92226

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OFFICE OF THE CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
450 Golden Gate Avenue  
San Francisco, CA 94102

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